



Commonwealth of Kentucky Labor Cabinet

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Court of Appeals Rules in Favor of Employees After Decade-Long Court Battle

Court Rules TECO Mechanical Contractor Inc. must pay employees prevailing wage

FRANKFORT, Ky. (Dec. 1, 2014) – After nine years in the court system, the Kentucky Court of Appeals has ruled that a mechanical contractor owes more than \$54,000 in back wages to employees who were underpaid for work performed in 2000-2001.

TECO Mechanical Contractor Inc. must pay about \$54,164.27 in back wages and \$5,250.00 in civil penalties. The court also awarded prejudgment interest from December 2004, which brings the total to approximately \$124,000.

TECO worked on several public works projects in 2000-2001. Employees claimed they were underpaid, saying that regardless of what work they performed, TECO paid some employees a set number of hours each day at the skilled mechanic rate and a set number of hours at the laborer rate.

“The most important thing in this ruling is that the employees, who have waited for so many long years, can finally hope to get the compensation they have earned,” said Labor Cabinet Secretary Larry L. Roberts. “This is a victory for every hard-working Kentuckian who strives to earn an honest paycheck.”

Prevailing wage rates for each classification of construction workers are established by the Kentucky Labor Cabinet and statute KRS 337.520(1). The rates are incorporated into every public authority’s bid documents and project specifications so that contractors

bidding on the project are aware of the wage rates and can properly project their labor costs.

In March 2005, TECO filed suit in Franklin Circuit Court, claiming that Kentucky's prevailing wage law violated its constitutional due process rights and that it improperly delegated legislative or judicial authority to the Labor Cabinet. The Labor Cabinet filed a counterclaim against TECO and also claims against the prime contractors to recover the monies owed to the employees.

The Franklin Circuit Court and Court of Appeals both ruled in favor of the state and ruled that the state's prevailing wage law is constitutional. Those decisions were later upheld by the state Supreme Court.

The final ruling affirms that when an employee undertakes work incidental to his/her skilled labor, the incidental work must be compensated at the *skilled* rate as opposed to the *laborer* rate. The Court of Appeals held that TECO had violated Kentucky's prevailing wage law by arbitrarily splitting its employees' work hours between a skilled and unskilled pay rate by using a predetermined formula.

TECO has filed a petition for a rehearing with the Court of Appeals. If that is denied, the company would have 30 days to file a final appeal with the Kentucky Supreme Court.

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The Kentucky Labor Cabinet's primary responsibility is to ensure that divisions and offices falling under the auspices of the Cabinet work within the jurisdiction of Kentucky labor law to ensure equitable and fair treatment of the Commonwealth's nearly 1.9 million wage-earning employees. The Cabinet, according to regulation, has the duties, responsibilities, power, and authority relating to labor, wage and hour issues, occupational safety and health of employees, child labor, apprenticeship, workers' compensation insurance, and all other matters under the jurisdiction of the Labor Cabinet. For more information, visit www.labor.ky.gov.

